

Candidate Qualifying

FLORIDA
★ DIVISION OF ★
ELECTIONS



SOE Small County Meeting
October 29, 2015 (rev. 10.30.15)

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Bureau of Election Records

IMPORTANT REMINDER

The responsibility of the qualifying officer is ministerial in nature. Such an official merely examines the face of the qualifying papers presented for completeness. The qualifying officer may not determine whether the contents of the qualifying papers are accurate.

- ❑ Section 99.061(7)(c). F.S.
- ❑ Op. Atty Gen. Fla 76-130 (June 10, 1976)
- ❑ State ex rel Shevin v. Stone, 279 So.2d 17 (Fla. 1972)

Resign-to-Run Law (s. 99.012): Current officer seeking another public office --

- ❑ If current term will overlap with term of another state, district, county, or municipal public office term being sought, officer must resign IAW law.
- ❑ NOTE: Resign-to-run law does not apply if person is running for federal office.

Resign-to-Run Law (s. 99.012): Cont'd

- ❑ Qualifying officer is not responsible for enforcing the resign-to-run law:
 - ❑ Best practice is to inform your candidates of the law's requirements
 - ❑ Filing officer cannot refuse to qualify a candidate who has not complied.
 - ❑ Filing officer cannot remove a candidate's name from the ballot. Takes court action to remedy.



Resign-to-Run Law (s. 99.012): Cont'd

Questions regarding the resign to run?

- ❑ Chapter 2 – SOE Qualifying Handbook
- ❑ Contact the DOE General Counsel's office at 850-245-6536 or email question to generalcounsel@dos.state.fl.us
- ❑ Speak with your county attorney

Residency Requirements

How is residency determined?

- ❑ DE Opinions 80-27 and 93-05:
 - **Key element of residency is the intent of the individual.**



When does the candidate have to meet the residency requirements?

- ❑ At the commencement of the term unless otherwise provided by law or judicially. **See DE Reference Guide 0008 (07/2014).**

Residency

Failure to comply with Residency Requirements

- ❑ It takes a court order to remove the person's name from the ballot – a qualifying officer has no independent authority to remove the candidate's name from the ballot.



Candidate Petition Process

(ss. 99.095 & 105.035, F.S.)



Candidate Petition Advantage

- ❑ A person seeking to qualify for nomination to any office may qualify to have his or her name placed on the ballot by means of the petition process.
- ❑ **A person qualifying by this method is not required to pay the qualifying fee or party assessment.**
- ❑ Petition process only waives the fees – candidate must still submit other qualifying papers.

Forms for Petition Process

Form DS-DE 9, Appointment of Campaign Treasurer and Designation of Campaign Depository – must first be filed before obtaining signatures on candidate petition.

- ❑ Exception: federal and special district candidates

Form DS-DE 104, Candidate Petition

- ❑ Signatures on petitions that are not on the current form (eff. 09/11) are not valid.
- ❑ Candidates are responsible for reproducing the petition.
- ❑ Forms cannot be altered in text or format.

Collecting Signatures— How Many?

- ❑ 1% of the registered voters in the geographical area represented by the office for immediately preceding general election.
 - ❑ Exception: Special districts – 25 signatures
- ❑ Candidates elected on county-wide or greater
See Division website under Qualifying Information
- ❑ Candidates elected on less than county-wide basis:
 - ❑ SOE calculates based on registration
 - ❑ Exclude the number of voters on the inactive list

Collecting Signatures— When?

- ❑ A candidate may begin collecting signatures as soon as the DS-DE 9 is filed.
 - ❑ Exception: Federal and special district
- ❑ Signatures are valid only for the next qualifying period immediately following such filings.

Collecting Signatures— Where?

- ❑ Absent a local ordinance, candidates may collect petitions in any public place including a government-owned building.
- ❑ Private Property – depends upon owner of property unless is a quasi-public area. (case law.)



Verifying Petitions -- Where Are Petitions Submitted?

- ❑ Submitted for verification to the SOE in the county in which the voter is registered
- ❑ Candidate's responsibility to ensure that petitions are submitted to correct county
- ❑ Rule 1S-2.045 requires Supervisor of Elections to notify candidates of misfiled petitions.

Deadlines

- ❑ Deadline for submitting petitions to the SOE is Noon, on the 28th day before the first day of qualifying for office being sought.
 - ❑ April 4, 2016 – Judicial, State Attorney and Public Defender
 - ❑ May 23, 2016 – Federal, State, Multi-county, County and District.
 - ❑ July 15, 2016 - Presidential



Deadlines

- ❑ Deadline for SOE certifying petitions to the Division:
 - ❑ NLT 11:59 pm Eastern time on the 7th day before the first day of the qualifying period.
 - ❑ Certification is done electronically via the SOE Portal (Guide available in portal)
 - ❑ Certifications entered after the deadline are not accepted.

Candidate Petition Fees

- ❑ Verification fee is 10 cents or the actual cost of verifying, whichever is less.
- ❑ Fees must be paid by the candidate:
 - ❑ Campaign check or petty cash;
 - ❑ Candidate uses personal funds and reports as in-kind or is reimbursed by the campaign; or,
 - ❑ Third party pays and is reimbursed by the campaign.



Oath of Undue Burden

- ❑ Candidate may file an oath of undue burden Oath -- taken at face value (**must be an original**)
- ❑ Reimbursement to SOE for verification of signatures at no charge
 - ❑ SOE submits request to DOE by December 1 after the election



Candidate Qualifying



Time for Submission

- ❑ Section 99.061(8), FS - May accept and hold qualifying papers not earlier than 14 days prior to qualifying period.
- ❑ If done within the 14-day period – the papers are to be processed and filed during the qualifying period.



Documents Required

(s. 99.0671(7), F.S.)

1. DS-DE 9 - Appointment of Campaign Treasurer and Designation of Campaign Depository for Candidates
2. Financial Disclosure Form 1 or 6 (Ethics Form)*
3. Candidate Oath and if partisan candidate, Statement of Party (= 1 form)
4. Fee or alternative:
 - ☐ Pay qualifying fee by properly executed campaign check; or
 - ☐ Qualify by the petition method (no fee); or
 - ☐ Qualify as a write-in candidate (no fee).

Qualifying Fee

The qualifying fee must be:

- ☐ Not less than the fee required
- ☐ Paid by a properly executed check
- ☐ Drawn on the campaign account

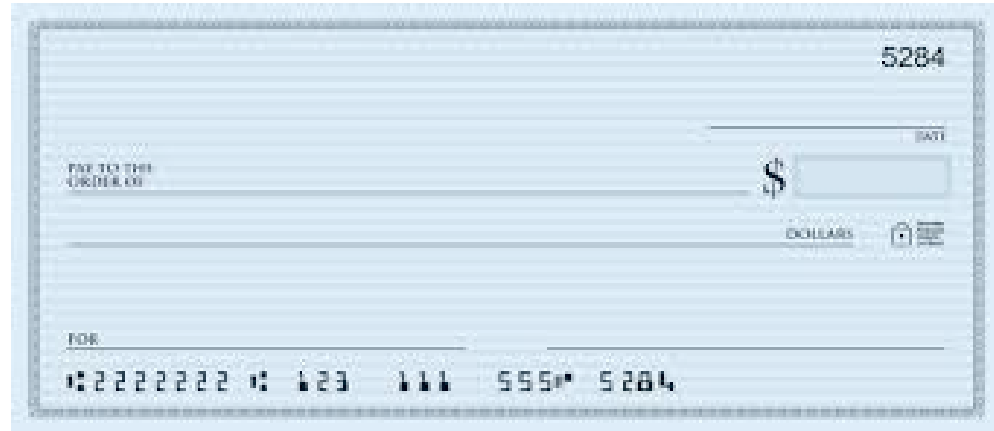


What Is the Required Fee?

- ❑ **Partisan candidate:** 6% of salary
- ❑ **NPA & Non-partisan:** 4% of salary
- ❑ Based on salary as of preceding July 1st:
12 x monthly salary (excluding any special qualification pay)



Properly Executed Qualifying Check



- ☐ Dated
- ☐ Numerical amount
- ☐ Written amount
- ☐ Signature
- ☐ Drawn on campaign account
- ☐ Paid to the order of _____.

Signature on Qualifying Check

- ❑ Must be signed by duly appointed treasurer or deputy treasurer
- ❑ Candidate may not sign the check unless he has been appointed as a treasurer or deputy treasurer



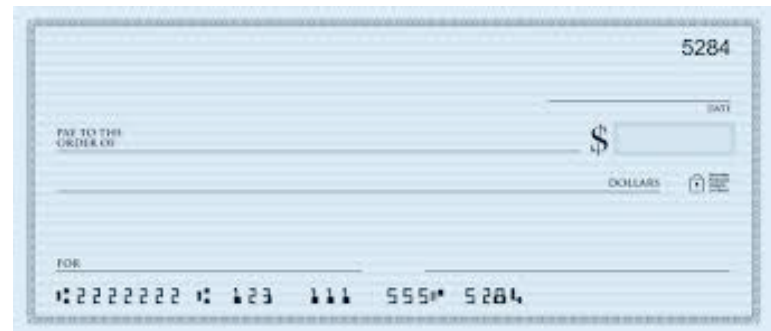
Drawn on the Campaign Account?

- ☐ Cashier checks, *personal* checks and money orders are not acceptable.
- ☐ Cashier's checks paid for by funds from the campaign account are not acceptable
- ☐ Exception for Special Districts



Qualifying Check Misc.

- ☐ Not dated: Accept (date is date of delivery)
- ☐ Starter Checks
- ☐ Amount more than qualifying fee – OK
- ☐ Amount less – ask for new check
- ☐ Numerical amount and written amounts differ – written amount controls



Bounced Qualifying Check (s. 99.061(7)(a), F.S.)

- ☐ Immediately notify candidate
- ☐ Candidate has until the end of the qualifying period to pay the fee with a cashier's check purchased with funds of the campaign account
- ☐ Failure to timely provide cashier's check will disqualify candidate
- ☐ **Difference exists for school board and judicial candidates** — given 48 hours after notice to to pay with cashier's check paid from campaign account (s. 105.031(5), F.S.)



Error in Qualifying Papers (s. 99.061(7)(b), F.S.)

Qualifying officer must make reasonable effort to notify candidate of mistakes in paperwork ***prior to the last day of qualifying.***

May be helpful to create checklists to aid in determining if paperwork is complete. (See handout)



End of Qualifying

- ❑ Anyone in line at 12 noon should be allowed to qualify.
- ❑ No corrections to qualifying papers after the close of qualifying.





Return of Qualifying Fee

- ☐ **Candidate Withdraws** - must withdraw in writing prior to the last date to qualify to have fee returned
- ☐ **Deceased Candidate**
 - ☐ If the candidate dies prior to the election, the candidate's beneficiary is entitled to the return of the qualifying fee.
- ☐ **Candidate Fails to Qualify**
 - ☐ Return check with letter indicating that the person did not qualify.

Qualifying FAQs

- ☐ Do I ever refuse to accept qualifying papers?
 - ☐ No. Always accept the documents. Notify the candidate after qualifying is over why he or she did not qualify.
- ☐ Notary questions
 - ☐ Is an out-of-state notary or oath administered in a foreign country acceptable? Yes
 - ☐ Is a document properly notarized if it contains the notary stamp but not the notary signature or vice versa ? No.
 - ☐ Is a document properly notarized if the notary fails to designate the name of the person appearing before the notary? Yes. See section 117.05(4)e, Florida Statutes.

Qualifying FAQs

- ❑ Must qualifying documents be executed during the qualifying period or the 14 day pre-qualifying period?
 - ❑ No. The documents are only required to be submitted during that time period.
- ❑ Names on Ballots
 - ❑ Nicknames? – Yes, if the candidate is generally known by that name or the name is used as part of his or her legal name. See DOE 86-06, 09-05 and Division memo on DOE website.
 - ❑ Descriptive information? – No. A candidate may not use Dr., Reverend, Colonel, etc. unless two persons of the same name, or so similar as to cause confusion, are running for the same office.

Qualifying FAQs

☐ Names on Ballots (continued)

- ☐ Can a married woman use her maiden name? – **Yes.**
- ☐ Can misspelled name be corrected after qualifying? – **No. See section 99.061(7)(b), F.S.**
- ☐ May a candidate use just a first or just a last name? – **No. A name consists of one Christian or given name and one surname. See DEO 86-06.**

Notifying DOE of Qualified Candidates (s. 99.092, F.S.)

- ❑ Immediately after the last day of qualifying, the SOE must submit a list of candidates containing names, party affiliations, and addresses.*
 - ❑ Done via the SOE Portal based upon Notice of General Election (Guide available in portal).
 - ❑ Municipal candidates and political party precinct committee candidates are **NOT** reported to DOE.
 - ❑ System is locked 10 days after the close of second qualifying.

* Referred to as the online DS-DE 80

Notifying DOE of Candidate List Changes

- ☐ After system is locked, all changes must be reported to DOE
 - ☐ Candidate withdraws or dies prior to election
 - ☐ Corrections – name, office, address, etc.
 - ☐ Additions or deletions
 - ☐ Contact Kristi Bronson by email
 - ☐ Kristi.Bronson@DOS.MyFlorida.com
- ☐ After primary and general, system is updated based upon official results. Manual updating is no longer required.



Distribution of Qualifying Fees

☐ **County Judge and School Board Candidates**

- ☐ 4% qualifying fees (1% election assessment and 3% filing fee) - forwarded to Florida Election Commission (FEC)

☐ **Partisan Candidates**

- ☐ 1% election assessment - forward to FEC
- ☐ 5% (3% filing fee and 2% party assessment) – forward to the state executive committee of the political party of the candidate

☐ **NPA Candidates**

- ☐ 1% election assessment - forward to FEC
- ☐ 3% filing fee – deposit in county general revenue fund

☐ **Special District Candidates**

- ☐ \$25 filing fee - deposited in the general revenue fund of the county
 - ☐ See handout – DOS memo dated 4-22-2010

Qualifying Questions



Contact Division of Elections
Bureau of Elections Records
Phone: 850-245-6280

